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Date of Visit: 11.1.00
Date of Report DEC 05 2000

Douglas C. Sparks, Esq.
Twohy, Darneille & Frye, A Professional Corporation
730 Alhambra Boulevard, Suite 202
Sacramento, CA 95816

RE: Thomas BEARD vs. San Joaquin Mosquito Abatement District
SSN: 558-76-6159
DOI: 5.22.95; CT-1.18.96; 11.19.95
WCAB: STK 124214; STK 124216; Unassigned
CLM: 6201527; 6201500; Unassigned

ORTHOPEDIC RE-EVALUATION – David M. Broderick, M.D.

MEDICAL-LEGAL FEE SCHEDULE		
Explanation of billing-ML104 Comprehensive Medical -Legal Evaluation involving extraordinary circumstances.	☑ prior multiple injuries to the same body part or parts. Left knee injury in 1988 and 1995 resulting in 15-1/4% award. New claim of new and further disability. ☑ complex causation and apportionment.	Time spent: Face to Face: 0:26 Records (3 inches): 2:51 Report prep: 1:21

Dear Mr. Sparks:

Thomas Beard is a 51-year-old, right-handed control technician who is seen on 11.1.00 in the offices at 1803 West March Lane in Stockton for orthopedic re-evaluation in relation to a claim for new and further disability. Mr. Beard was initially seen by me on 5.28.97 in conjunction with left knee trauma occurring on 5.22.95. Due to these circumstances, a complete evaluation is performed today.

Recapitulation of History: Mr. Beard has been an employee of San Joaquin Mosquito Abatement since 1972. He indicates that he is currently performing his normal work activities without restrictions.

At the time of my initial evaluation, the applicant described industrial trauma occurring 5.22.95, 11.19.95, and cumulative trauma through 1.18.96. He described a specific trauma occurring when he was inspecting a pit. The ground gave way, he lost his footing, and he caught his left foot on the embankment. He continued working after that accident. However, he did note swelling of the knee and was seen at Dameron Hospital in the occupational medical department. He came under the care of an orthopedic surgeon, who felt the applicant could be considered permanent and stationary as of 6.22.95.

Mr. Beard described persistent knee symptomatology and next came under the care of Dr. Cahill, an orthopedic surgeon, who initially examined him on 11.25.95. An MRI scan was recommended and performed in 12.95. This study showed evidence of a torn medial meniscus. Dr. Cahill recommended surgery, which was performed on 1.18.96, at which time the applicant underwent an arthroscopic partial medial meniscectomy and chondral shaving. It should be noted that at the time of Dr. Cahill's initial examination on 11.22.95, he listed no specific trauma occurring 11.19.95. There is no indication that the applicant sustained further trauma from 5.22.95 to 1.18.96 and there is, therefore, no evidence for cumulative trauma through 1.18.96.

The applicant, at the time of his initial evaluation of 5.28.97, indicated that his "left knee feels pretty good." He indicated that on or about February of 1997 he began to develop pain in his right knee. He described no trauma at that time. My diagnostic impressions were (1) chronic left knee strain, (2) status post internal derangement, left knee, with partial medial meniscectomy and chondral shaving, (3) normal right knee examination. I had recommended that the applicant be restricted from repetitive squatting or kneeling with respect to the left knee, as well as very heavy lifting. I felt the applicant required no restrictions with respect to his right knee. The applicant did described intermittent right knee pain, although his clinical examination regarding the right knee was unremarkable.

Interim History: The applicant indicates that since his previous evaluation by me in these offices on 5.28.97, he has had no subsequent industrial injuries. He continues to treat with Dr. Cahill at three-month intervals. The applicant states that he is currently prescribed a non-steroidal anti-inflammatory medication (Celebrex). He indicates that he did receive an insurance settlement with respect to his left knee injury, although he cannot recall the percentage of disability he received.

It should be noted that the applicant had previously sustained left knee trauma in 1988, for which he had a history of chronic left knee symptomatology and for which he was

awarded a 9-3/4% permanent disability. At the time of my initial evaluation, I felt that any further medical treatment would be considered on the basis of his initial 1988 industrial trauma, for which he was rendered symptomatic and for which he received disability. Per your cover letter, the applicant was awarded an additional 5-1/2% permanent disability in relation to a 5.22.95 injury.

The applicant states that he began developing right knee aching approximately 1-1/2 years ago. He describes no injury. At the time of my 5.28.97 evaluation, he indicated that he began experiencing right knee symptoms in February of 1997. He feels that his right knee complaints are due to placing more weight on his right leg because of his left knee complaints. He indicates that Dr. Cahill had recommended that he undergo a gym program for his knee symptomatology.

Records from Dr. Cahill note the applicant with a diagnosis of medial left knee pain, prior surgery for medial meniscectomy, early osteoarthritis of both knees, obesity, and gout. Dr. Cahill recommended a weight loss program, as well as a diet for his gout and a health club membership. The last record available from Dr. Cahill, dated 7.24.00, notes a diagnosis of left medial compartment osteoarthritis, status post arthroscopic partial meniscectomy, osteoarthritis of the right knee which is not yet a workers' compensation problem.

Current Complaints: The applicant describes daily pain in his left knee. He states the pain comes and goes. He states that activities such as running or walking on uneven ground increases his symptoms. He describes alternating pain in his right knee, which is "not every day."

Medications: Celebrex and Tylenol.

Surgeries: Prior surgeries include right knee surgery in 1970, surgery for perirectal abscess as well as the 1996 left knee arthroscopic surgery.

Social Habits: He denies ethanol intake. He does not smoke.

Social History: He is divorced. He has five children. He has not been in the military. He is a high school graduate and has one year of college training.

CHRONOLOGIC REVIEW OF RECORDS:

All medical records supplied by the referring party were reviewed.

10.26.88, Doctor's First Report of Work Injury, J. Sepiol, M.D.: Date of injury: 10.26.88. Date of first examination: 10.26.88. Date last worked: 10.26.88. History of injury: At work, slipped and fell in a ditch. Complains of injury to the left leg. Diagnosis: Trauma, left quadriceps muscle. Not able to work.

11.16.88, orthopedic consultation, G. Murata, M.D., addressed to Bierly & Associates, for evaluation of 11.15.88. He works for San Joaquin County Mosquito Abatement Center. Fell in a ditch on 10.26.88, sustaining a severe hyperflexion injury to his left knee. As he was falling, his foot caught and he felt a pop just superior to his patella. Has had considerable pain and swelling, especially anterior left thigh. Originally seen at Dameron Emergency Room. Placed off work. Was evaluated one week later. Physical therapy. Was going to physical therapy daily for quadriceps rehabilitation exercises. He has been completely off work since October 26th. Assessment: Partial quadriceps rupture, rule out possible medial meniscal tear in light of his medial joint line tenderness. Should continue in present physical therapy program. Recheck in 2 weeks. Would consider him a candidate to return to light duty at that time. Should be completely disabled from any type of work except for a sitting type of job, which is unavailable at the Mosquito Control Center.

12.14.88, G. Murata, M.D.: Complains of decreased pain in the left thigh/knee. He has been slowly improving with physical therapy. Assessment: Improving quadriceps strength, possibly medial retinacular plica versus a meniscal tear. Continue with physical therapy. Cannot return to his present duties at the present, which include heavy lifting and working out in the field. He can return to some sort of light sedentary type of duties with no lifting greater than 10 pounds, as well as no operation of any sort of heavy equipment. Recheck in 2 weeks.

12.29.88, G. Murata, M.D.: Finished physical therapy. Good functional use of the left leg. Is doing quite well, should be able to return to full duties 1.3.89. Recheck p.r.n.

6.28.89, orthopedic evaluation, P. Baker, M.D.: Date of injury: 10.26.88. Was returned to full duty work 1.3.89. He continues to work at his usual capacity to the present. "I interpret the mechanism of injury did produce a partial tear of the patient's left quadriceps that has now healed strongly." No suggestion of internal derangement of his left knee, including absence of localized joint line tenderness, absent click signs and absent instability. No indication for work limitation. Subjective: Intermittent and slight when descending an incline. Objective: ½" decreased circumference at the 19" level proximal to the distal pole of the medial malleolus in the left thigh. Discomfort on unilateral left knee kneeling and at full squat. No indication for additional treatment. He

is back at his accustomed working demands, which he is judged capable of continuing to carry out. Not QIW.

10.3.89, letter to Keenan and Associates from G. Murata, M.D.: Dr. P. Baker's letter was reviewed. Mr. Beard is has not been evaluated since 1.89. Agree with Dr. Baker that he is not QIW. No indication for a specific treatment.

1.12.90, Doctor's First Report of Work Injury, H. Kim, M.D.: Date of injury: 10.26.88. Date of first examination: 1.12.90. Date last worked: 11.11.90. History of injury: Slipped in a ditch, left knee got stuck while sliding down hill. Knee popped from sudden stop. Diagnosis: Left knee sprain. Able to work.

1.16.90, G. Murata, M.D.: Returns with complaints of left knee pain, which he states has been increasing over the last 2 months. Complains of giving way episodes and has severe pain near the anterior aspect and proximal area of his patella. Also complains of transient numbness. Assessment: Continued symptoms after quadriceps strain. No obvious need for further treatment including physical therapy at the present time. He is P&S. Only objective findings are a mild amount of quadriceps and calf atrophy. X-rays within normal limits.

7.17.91, G. Murata, M.D.: Being seen for long-term follow-up about his left leg. Sustained a quadriceps strain in October of 1988. Treated with knee immobilizer as well as subsequent PT. Continues to complain of weakness and giving way about the left lower extremity. Do not believe any type of bracing or surgery would be of benefit. Another trial of physical therapy would be beneficial. Should be seen after completion of PT.

8.29.91, G. Murata, M.D.: Assessment: Improvement of left quadriceps strain. Should continue with PT. Recheck in 3 weeks.

11.21.91, G. Murata, M.D.: Left quadriceps weakness, secondary to quadriceps strain. Was hospitalized 10.7.91 for an unrelated medical condition. Has been unable to perform any heavy work or return to regular duties until 11.18.91. Since physical therapy was interrupted, wish to restart physical therapy. Return for follow-up in 1 month.

12.20.91, G. Murata, M.D.: Can continue therapy on a home program. Advised on weight loss program as well as continuation of conditioning program. He is P&S. May have some problems with weakness in both legs should he continue to be overweight, as well as not pursuing a conditioning program to the lower extremities. Recheck p.r.n.

4.7.92, letter to Keenan and Associates from G. Murata, M.D.: He is P&S. He continues to have some complaints of weakness and giving way about the left lower extremity. No real discomfort about the left knee. Objectively, he underwent isokinetic

studies, which showed 90% quadriceps strength about the left knee compared with the opposite knee. Objective findings were full range of motion about the knee, no joint line tenderness, and no significant ligamentous laxity. He has 10% weakness in the left knee. No further need for medical care.

5.26.95, physical therapy report.

11.16.95, physical therapy report: Primary complaint: Left knee pain. Was walking on uneven surface when he felt a sudden shift in his left knee, which almost caused him to fall to the ground. Felt as if the kneecap dislocated. Past medical history is positive for significant knee problems, including instability as well as loss of balance. Original injury was 1986. The episode for which he is being seen today is the third episode. States that his knee this time became quite puffy. Initially had a great deal of difficulty walking, but he is able to ambulate a little better now. Will be seen 3 times a week for 2-4 weeks.

2.13.96, E. Cahill, M.D.: 2 ½ weeks after surgery. Still notes that his knee buckles on him. He has been treating with physical therapy. Continue physical therapy, continue home program. Recheck in 2 weeks. Expect to be off work for the next 3 weeks. Disability extended to 3.8.96.

4.23.96, E. Cahill, M.D.: Had gone back to work 4.22. He had significantly more pain in his left knee. Had too much pain, was unable to tolerate it. Had trouble driving. Every time he gets out of his truck, he noted to be limping. Assessment: Status post arthroscopic partial medial meniscectomy, left knee, and chondral shaving. Disability through 5.27.96. Trial of work was unsuccessful. Naprosyn. Recheck after another 3 weeks of physical therapy.

9.3.96, E. Cahill, M.D.: Continues to do his regular job duties. Tried to play volleyball over the weekend, found he could do it. Will be performing his strengthening exercise program using Jacuzzi modalities. Is doing fairly well after arthroscopic medial meniscectomy. Continues his regular job duties. He is aware of need for weight loss. Recheck in 2 months.

1.29.97, E. Cahill, M.D.: He has improved. Has continued his regular job. Has been doing his exercises regularly. He has lost 15 pounds. Continue with exercise program at the spa. Has been able to continue his regular job duties. Continue using the exercise programs. Recheck in 3 months.

4.29.97, E. Cahill, M.D.: Overall, he seems to be doing fairly well. His knee is not symptomatic at this time. Complaining of pain in his right knee. Status post arthroscopic partial medial meniscectomy, left knee. Overuse due to heavier reliance on the right knee during convalescence of the left knee. May have some degenerative change in the medial compartment of his knee, possibly secondary to his obesity and age. Might be able to

ascertain whether the right knee problems are truly work-related. There may have been some overuse during this period of convalescence after his left knee. The overall symptoms appear to be fairly mild. Recheck in 6 months.

10.27.97, E. Cahill, M.D.: Six months after surgery. His left knee has been bothering him at times, but his right knee has been bothering him as well. Notes he can't run. Has had a QME exam for P&S status. Assessment: (1) Status post arthroscopic partial medial meniscectomy, left knee. (2) Overuse of the right knee associated with convalescence of left knee. Should continue with doing exercises in the gym. Recheck in 6 months.

2.9.98, E. Cahill, M.D.: Returned to work after his last visit. Continues to work and doing his exercises. Feels like his knee is getting stronger. Assessment: Status post arthroscopic partial medial meniscectomy, left knee. Recheck in 1 month.

3.9.98, E. Cahill, M.D.: Somewhat depressed, talking slowly, is asking for time off work. Apparently, his brother just died last week. He has also had other problems relating to the flu, feels tired all the time. Assessment: Status post arthroscopic partial and lateral medial meniscectomies. Is felt he should not be considered disabled from his regular job simply because of his recent social difficulty, and the fact that he has had the flu. Would be appropriate for him to see his doctor. Request a continuation of treatment at the health spa. This is helpful, and that he is able to work out. Tends to do better in regards to his knee function when he is able to continue to do so. Recheck in 1 month.

4.6.98, E. Cahill, M.D.: Taking his medication on a sporadic basis. Assessment: Status post arthroscopic partial medial and lateral meniscectomy of the left knee. Continue with work. Lab data obtained to rule out any potential for renal, hepatic or hematologic toxicity. Recheck after studies.

4.9.98, E. Cahill, M.D.: Has been having ongoing difficulties with his left knee. Did not receive last month's card for the gym. Subsequently, he did not work out. Had more pain and difficulty. Assessment: (1) Status post arthroscopic partial medial meniscectomy of the left knee. (2) Possible overuse of the right knee resulting in chondromalacia and pain of the patellofemoral joint. Should resume his exercise. Has had a 20-pound weight gain. Is encouraged to lose weight. Resume exercise. Placed on disability from his regular job duties.

5.4.98, E. Cahill, M.D.: Laboratory work was reviewed. Revealed an elevated uric acid level. Seen by his family physician. Was placed on a diet, decreased consumption of red meat. Taking Naprosyn, Vicodin. Has been depressed recently due to several family members having passed away. Assessment: Status post partial medial and lateral meniscectomies of the left knee. Recommend the use of health spa for use of the exercise equipment to help control his weight and improve his overall left leg strength. Exercise

at home encouraged. Elected not to obtain physical therapy in the hope that he will be able to obtain approval for the health spa membership.

6.1.98, E. Cahill, M.D.: Complaining of pain in both knees. Still upset with work comp carrier for not approving his health spa membership. Complains his right knee pain is secondary to increased stress that his right knee has had to absorb since he sustained an injury to his left knee. Right knee has evidence of a prior transverse incision medially, secondary to surgery 20 years before. Assessment: (1) Status post left knee arthroscopic meniscectomy. (2) History of a prior right knee surgery. (3) Chondromalacia and early osteoarthritis of both knees. (4) Obesity. Weight loss encouraged. Off work for 3 days.

6.29.98, E. Cahill, M.D.: Assessment: (1) Status post left knee arthroscopic meniscectomy. (2) History of prior right knee surgery. (3) Chondromalacia and early osteoarthritis of both knees. (4) Obesity. To have weight loss exercise program with gym membership. Recheck in 3 months.

9.21.98, E. Cahill, M.D.: Continues to have problems with his left knee, primarily medial. He is favoring his right knee more than left. Taking Naprosyn, 1-2 times per week. Assessment: Status post left knee medial and lateral meniscectomies. (2) Prior right knee medial surgery, possible medial meniscectomy. (3) Early osteoarthritis of both knees. (4) Obesity. (5) Gout. Naprosyn. Continue on diet for gout. Recheck in a few months.

11.16.98, E. Cahill, M.D.: Has been several months since he was last seen. Did not have his lab work done after his last visit. He also stopped taking Naprosyn about 2 months ago. Apparently got the flu, ran out of medication. He has complaints of aching of the left knee, which tends to be worse with cold weather. Weighs 330 pounds. "He was initially standing improperly on the scale, and that makes his last weight questionable, 283 pounds. He does not think he has gained 47 pounds in the past 2 months. Weight loss, diet for gout. Remain off Naprosyn. Re-evaluate in 3 months. He is still unable to obtain a health spa membership.

3.31.99, E. Cahill, M.D.: Both knees have been bothering him. He left work today. Has been taking Naprosyn on an occasional basis. Continue weight loss, Celebrex. Remain off work. Recheck 4.5.99. Also health club membership for 6 months due to problems related to osteoarthritis of both knees and previous arthroscopic procedure.

4.5.99, E. Cahill, M.D.: Left knee has continued to buckle on him, still bothering him. Has improved from last week. Does not feel he could perform his regular duty. Celebrex. Continue weight loss. Resume health club membership.

5.24.99, E. Cahill, M.D.: Has been taking Celebrex. When he stopped taking Celebrex, experienced more pain in both knees. Assessment: Status post left knee arthroscopy,

squatting, he has pain over the medial aspect of the left knee. He describes pain over the anterior aspect of the right knee.

Deep tendon reflexes show the patellar jerks non-elicitable. Ankle jerks are 2+ in both lower extremities. He has normal sensation to pinprick over both lower extremities. Extensor hallucis longus motor strength is normal and symmetric over both lower extremities.

DIAGNOSTIC IMPRESSION

(1) Osteoarthritis, both knees, as per medical records.

(2) Status post partial medial meniscectomy and chondral shaving, left knee.

DISCUSSION

The applicant is seen for orthopedic re-evaluation. He indicates that since his previous examination in 1997, he has noted increasing symptomatology in his right knee. He was diagnosed as having osteoarthritis. The applicant is 51 years of age and weighs 347 pounds. The onset of degenerative arthritis would be predictable in view of the applicant's morbid obesity.

He currently demonstrates no evidence of internal derangement of either right or left knee. He has no evidence of knee effusion. He requires no further medical management, other than intermittent use of non-steroidal anti-inflammatory medications. There has been no advance in his disability status since his previous examination in these offices in 1997. He remains permanent and stationary. His left knee symptomatology would be considered industrially-related. His right knee symptomatology would be most consistent with the development of degenerative osteoarthritis secondary to his 1990 right knee surgery. The altered biomechanics of weight bearing due to his chronic left knee symptoms may have accelerated the arthritis but would not have been considered causative and therefore his right knee complaints would be non-industrial.

SUBJECTIVE FACTORS OF DISABILITY

Subjective factors of disability consist of intermittent left knee pain, which would be of minimal intensity, becoming occasionally slight with increased activity levels. He describes intermittent episodes of right knee pain, which would be of minimal intensity.

OBJECTIVE FINDINGS

The applicant describes medial left knee pain, as well as anterior right knee pain. His prior surgery noted grade II chondromalacia of the medial femoral condyle of the left knee. His examination is otherwise unremarkable.

DISABILITY

The applicant would have no advance over his previous disability status with respect to the left knee. He continues to require prophylactic restrictions against very heavy lifting and repetitive squatting or kneeling.

He requires no work restrictions or preclusions with respect to his right knee.

CAUSATION AND APPORTIONMENT

The applicant sustained industrial trauma to his left knee in 1988. He sustained further trauma in 1995. He was awarded a total of 15-1/4 permanent disability in relation to the 1988 and 1995 injuries. His current disability status with respect to his left knee would be considered on the basis of those industrially-related injuries. He would not require any advance over his prior disability award.

There is no indication the applicant sustained specific industrial trauma to his right knee. His current right knee symptomatology would be considered on the basis of the natural progression of degenerative arthritis with an etiology due to his prior right knee surgery coupled with his exogenous obesity.

PROVISION FOR FUTURE MEDICAL CARE

The applicant would benefit from a self-directed weight reduction program. Weight reduction should be coupled with an exercise program. Conceivably, a health club membership which the applicant attended on a frequent basis may help to reduce his level of symptomatology. A three month trial regarding a gym program should be initiated. If the applicant shows signs of improvement (i.e., his weight lessens from his current 347 pounds) then he should be granted an additional three month health club membership. At the conclusion of that time period, he should be able to perform his strengthening and stretching exercises at home and would require no further gym or physical therapy treatment.

VOCATIONAL REHABILITATION

The applicant would be able to continue with his normal work activities without restrictions and would not be considered a Qualified Injured Worker for purposes of vocational retraining.

Disclosures and declarations

In accordance with Labor Code Section 4628 (b), (c) and (j) and 8 California Code of Regulations, Rule 10978 let it be known that: I performed all medical aspects of this document. Clerical assistance rendered to me, without charge, may have included transcription, word-processing, editing for form, consistency and completeness, publications, billing, the recording of incident and employment dates and related history, and/or medical records abstracting. Names of participating editorial personnel in this office include Trudi Angel, Tammy Hall, Kathy Hancock, Rene'e Knox, Robin Miller, and Suzi Pinkham. I declare under penalty of perjury that the information contained in this report and its attachments, if any, is true and correct to the best of my knowledge and belief, except as to information that I have indicated I received from others. As to that information, I declare under penalty of perjury that the information accurately describes the information provided to me and, except as noted herein, that I believe it to be true. Exception: Where the report is recounting the history given by the applicant, or restating the observations or opinions of others, there is no implication that I believe it or disbelieve it, except insofar as that emerges from my comments. I supply this document, in response to request, for use only in connection with the proof or disproof of claims(s) in a court of law or in judicial arbitration. This evaluation complies with minimum time guidelines as stated in Article 4.5 of the Labor Code. I further declare under penalty of perjury that I have not violated Labor Code Section 139.3 and that I have not offered, delivered, received, or accepted any rebate, fund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for any referred examination or evaluation.

Your referral is appreciated. Please let me know if additional information is required.

12/5/00

DAVID M. BRODERICK, M.D. — date
Qualified Medical Examiner
Sacramento #900564, Stockton #900565
Orthopaedic Surgery

Signed in the County of Sacramento